PROTECTION ORDERS AND FEDERAL FIREARM PROHIBITIONS QUALIFYING RELATIONSHIPS UNDER 18 UNITED STATES CODE (U.S.C.) SECTION 922 (g)(8) and SETTING THE BRADY INDICATOR (BRD) IN THE NATIONAL CRIME INFORMATION CENTER (NCIC) DATABASE

The NCIC Brady Indicator provides three choices: "Y" indicates the respondent is prohibited under federal law from possessing firearms, i.e., the order meets the criteria of 18 U.S.C. 922 (g)(8); "N" indicates the respondent is not prohibited under federal law from possessing firearms, i.e., the order does not meet the Title 18 Section 922 (g)(8) criteria; and "U" which indicates that it cannot be determined whether the respondent is federally prohibited from possessing firearms, i.e., it can't be determined if the order meets the federal criteria.

The "Protection Order" Prohibition in the Gun Control Act sets out specific relationships between the SUBJECT of a protection order and the PROTECTED PERSON. The federal firearm prohibition does not apply UNLESS the relationship falls within one of these categories. 18 U.S.C. 922 (g)(8) applies to a subject who is restrained from harming "an intimate partner of such person or child of such intimate partner or person."

> *Intimate Partner* – With respect to a person, the spouse of the person, a former spouse of the person, an individual who is a parent of a child of the person, and an individual who cohabits or has cohabited with the person. ATF Regulations: 27 C.F.R. 178.11, *NCIC 2000 Manual Protection Order File, Section* 2.5 (3)*.

> *Cohabitation* – Requires a live-in relationship (or former live-in relationship) between two (2) individuals (can be same sex) which, in essence, is a sexual/romantic one, ***NOT*** *merely a roommate*.

The chart below contains relationships frequently encountered on protection orders and the appropriate determination for NCIC entry. Research should be conducted on all protection orders entered with a BRD of U (Unknown) to determine if clarifying information is available from the court, e.g., the petition may contain relationship details which don't appear in the order itself.

PROTECTED PERSON	SUBJECT	BRD		PROTECTED PERSON	SUBJECT	BRD
Spouse	Spouse	Y		Grandchild	Grandparent	N
Former-Spouse	Former-Spouse	Y		Grandparent	Grandchild	N
Unmarried Child in Common	Unmarried Child in Common	Y		Brother/Sister	Brother/Sister	N
Unmarried Currently or formerly living together unless documentation of cohabitation exists	Unmarried Currently or formerly living together unless documentation of cohabitation exists	U		Cousins	Cousins	N
Child	Parent	Y		Roommates	Roommates	N
Step-Child	Step-Parent	Y		Neighbors	Neighbors	N
Currently or formerly cohabiting	Currently or formerly cohabiting	Y		Step-Parent	Step-Child	N
Parent	Child	N		Boyfriend/Girlfriend Unless cohabitation exists	Boyfriend/Girlfriend Unless cohabitation exists	N
Nephew/Niece	Uncle/Aunt	N		Same sex cohabiting, intimate relationship	Same sex, cohabiting, intimate relationship	Y
Uncle/Aunt	Nephew/Niece	N		Stranger	Stranger	N